

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Tzu-Sherm Chen

Serial No.: 10/748,963

Filed: December 29, 2003

For: **Programmable Logic Module and  
Upgrade Method Thereof**

Confirmation No.: 7889

Group Art Unit: 2819

Examiner: White, Dylan C

Docket No. 250606-1040

**Petition to Withdraw Holding of Abandonment**

**Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

Sir:

Applicant hereby petitions the PTO to withdraw its holding of abandonment in the above-referenced patent application, as the application was abandoned for failure to respond to an Office Action bearing a mailing date of April 3, 2006. This Office Action, however, was never received by the firm of the undersigned.

**Relevant Facts**

Accordingly to the PTO's PAIR system, an Office Action was mailed on April 3, 2006 in this application. The undersigned has downloaded (from the PTO's PAIR system) an image copy of this Office Action and has confirmed that the mailing address on the Office Action is correct. However, this Office Action was never received by the firm of Thomas, Kayden, Horstemeyer & Risley, LLP.

At Thomas, Kayden, Horstemeyer & Risley, LLP, all incoming mail from the PTO is delivered directly to the docketing department of the firm. A file clerk then retrieves each corresponding file from the file shelf and couples the incoming correspondence to the proper file and then delivers the file to the desk of a docketing clerk, who docket

the received correspondence (and due dates for any required response). Thereafter, the file is directed to an associated attorney/assistant for reporting to the client and preparing any appropriate response.

In the present case, upon receiving notification that the application had become abandoned for failure to timely reply to the outstanding Office Action (dated April 3, 2006), the undersigned located the file on the file shelf of the file room. No Office Action was in the file. If, in fact, the Office Action had been received by the firm of the undersigned, then the Office Action would have been coupled to the file.

To further evidence this, attached as Exhibit A is a printout of the docket history for this file. There are only six items that have been entered into the docket during the history of this application. They are:

1. Return postcard (received 1/12/04)
2. Filing receipt (received 4/15/04)
3. Notice of recordation of assignment (received 7/21/04)
4. Corrected notice of recordation of assignment (received 8/25/04)
5. Notice of publication (received 7/15/05)
6. Notice of abandonment (received 11/6/06).

The fact that there is no docket entry for the receipt of the April 3, 2006, Office Action demonstrates that the Office Action was never received by Thomas, Kayden, Horstemeyer & Risley, LLP.

### **Mail Log Not Required**

The undersigned understands that the PTO prefers firms to keep a mail log of all incoming mail from the PTO, to verify submissions such as this petition. However, the process implemented at Thomas, Kayden, Horstemeyer & Risley, LLP is just as reliable as any mail log. In this regard, in the same way that an entry would purportedly exist in a mail log if the Office Action had been received, then the Office Action itself would exist in the location with other such incoming correspondence, until the file is pulled from the file shelf and matched to the correspondence. Simply stated, the April 3, 2006 Office Action is not present here. This absence of the Office Action is just as reliable as the absence of any corresponding record of a mail log.

Regardless, the attachments to this submission clearly demonstrate that Office Action was never received by Thomas, Kayden, Horstemeyer & Risley, LLP.

Simply stated, in view of the foregoing, it is respectfully submitted that the abandonment of this application should be withdrawn.

No fee is believed to be due in connection with this submission. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to deposit account 20-0778.

Respectfully submitted,



**Daniel R. McClure, Reg. No. 38,962**  
Attorney for Applicant

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Docket: **250606-1040**

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**

100 Galleria Parkway, Suite 1750  
Atlanta, Georgia 30339-5948

Tuesday, November 14, 2006

# Prosecution History

Case Number	Sub Case	Country	Attorney	Date Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
250606-1040		US	DRM	02-Jan-2007	PETITION TO REVIVE DUE Final	US-ABANDONMENT	10748,963	29-Dec-2003	Published

**Remarks:** 1. Return postcard w/unofficial serial number, rd 1/12/04.  
 2. Filing receipt mailedn 4/13/04, rd 4/15/04.  
 3. Notice of recordation of assignment mailed 7/16/04, rd 7/21/04.  
 4. Corrected notice of recordation of assignment mailed 8/19/04, rd 8/25/04.  
 5. Notice of publication, rd 7/15/05.  
 6. Notice of abandonment mailed 11/2/06, rd 11/6/06.

Exhibit A